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IN THE
COURT OF APPEALS OF INDIANA

JERMEL MARTIN,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A02-0803-CR-197
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Robert R. Altice Jr., Judge
The Honorable Steven Rubick, Commissioner
Cause No.49G02-0204-FB-107980

October 8, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

BRADFORD, Judge

Appellant-Defendant Jermel Martin appeals following the revocation of his probation. Martin contends that the evidence was insufficient to support the revocation of his probation and that the trial court abused its discretion in ordering that Martin serve his suspended sentence. We affirm.

FACTS AND PROCEDURAL HISTORY

On September 24, 2002, Martin pled guilty to and was convicted of Class C felony possession of an explosive or inflammable substance, Class B felony robbery, and carrying a handgun without a license. At some point, Martin was released from imprisonment and was placed on probation. The terms of Martin's probation stated that he was to report as directed to the probation department and that he was to submit to urine tests as instructed. During Martin's probationary period, the State filed eleven notices of probation violation, the last of which was filed on January 25, 2008.

On February 1, 2008, the trial court conducted a probation revocation hearing, at which the State presented evidence of Martin's alleged probation violations. At the conclusion of the probation revocation hearing, the trial court issued the following statement:

> Do you ever watch the Simpsons, Mr. Martin?
>
> *** * ***
>
> There's an episode that shows a young – a very young Bart Simpson standing in the kitchen in front of the stove. He touches the stove, ouch, ouch, ouch, ouch. Of course, it's the Simpsons, so they keep doing it repeatedly to drive home the fact that Bart's not smart enough to stop touching the hot stove. Normal children, when they touch a hot stove don't touch it again. Mr. Martin, violations of probation were filed May 11, 2006, June 8, 2006, August 31, 2006, September 12, 2006, December 21, 2006, February 9, 2007, March 15, 2007, April 27, 2007, September 18, 2007, October 12, 2007, and, again, January 25, 2008. Judge Altice found you in violation [June] 9, 2006 and continued you on probation with an express order that you have no more

> positive tests. January 19, 2007, you were again, continued on probation after being found in violation. On May 11, 2007, I found you in violation and ordered you to miss no further appointments. That was my express order, and it's in the court minutes. And on [January] 11, 2008, I gave you a direct order to go to the drug lab.
>
> *** * ***
>
> Mr. Martin, I've touched the hot stove enough. You continue to violate probation. You have been given chance after chance after chance. And you disregarded a direct order, two weeks ago, to report to the drug lab for testing. And you've come in today and you've continued to trot out the same tired excuses that we've heard time and time and time again. The Court finds Mr. Martin is in violation of his probation. I'm going to order his probation revoked. He is remanded to the Department of Corrections (sic) to serve nine (9) years.

Tr. pp. 104-06. Martin now appeals.

DISCUSSION AND DECISION

I. Sufficiency of the Evidence

Martin argues that the State did not present sufficient evidence to support the revocation of his probation.

> A probation revocation hearing is in the nature of a civil proceeding. Therefore, an alleged violation of probation only has to be proven by a preponderance of the evidence. When we review the determination that a probation violation has occurred, we neither reweigh the evidence nor reassess witness credibility. Instead, we look at the evidence most favorable to the [trial] court's judgment and determine whether there is substantial evidence of probative value supporting revocation. If so we will affirm.

Whatley v. State, 847 N.E.2d 1007, 1010 (Ind. Ct. App. 2006) (citations and quotations omitted). Violation of a single condition of probation is sufficient to revoke probation. *Wilson v. State*, 708 N.E.2d 32, 34 (Ind. Ct. App. 1999).

Here, the evidence most favorable to the trial court's judgment establishes that Martin

violated the terms of his probation. At Martin's probation revocation hearing on February 1, 2008, Rebecca Schrock of the Marion County Probation Department testified that Martin failed to appear at the probation department as ordered on January 22, 2008. Additionally, Schrock testified that the evidence established that Martin failed to submit to urine screens, as instructed, on December 24, 2007, January 9, 2008, January 11, 2008, and January 16, 2008. Moreover, Martin admitted that he had failed to submit to the January 11th court-ordered urine screen and that he had failed to report to the probation department on January 22, 2008.

To the extent that Martin argues that his testimony creates an inconsistency with the evidence presented by the State, the trial court is generally in the best position to judge the credibility of witnesses, and was within its discretion to conclude that Martin lacked credibility on this point. Here, the trial court acknowledged Martin's proposed excuses for his conduct but specifically stated that Martin had been given numerous chances yet continued to present the same excuses time and time again. Tr. p. 106. Therefore, in light of the evidence most favorable to the trial court's judgment, we conclude that the State presented sufficient evidence to support the revocation of Martin's probation.

II. Probation Revocation

Martin also contends that the trial court abused its discretion in revoking his probation. Specifically, Martin claims that the trial court abused its discretion in failing to enter a statement that included a reasonable detailed basis or circumstance for revoking Martin's probation. *See* App. Br. p. 12.

Probation is a favor granted by the State, not a right to which a criminal defendant is entitled. *Terrell v. State*, 886 N.E.2d 98, 100 (Ind. Ct. App. 2008), *trans. denied*. However, once the State grants that favor, it cannot simply revoke the privilege at its discretion. *Id*. Probation revocation implicates a defendant's liberty interest, which entitles him to some procedural due process. *Id*. Because probation revocation does not deprive a defendant of his absolute liberty, but only his conditional liberty, he is not entitled to the full due process rights afforded a defendant in a criminal trial. *Id*. The minimum due process requirements for a probation revocation proceeding include the requirement that the fact-finder provide a written statement regarding the evidence relied upon and the reasons for revoking probation. *Wilson v. State*, 708 N.E.2d 32, 33 (Ind. Ct. App. 1999). However, a trial judge's oral statement, if it contains the facts relied upon and reasons for revocation, and is reduced to writing in the transcript of the hearing, is sufficient to satisfy this requirement. *Id*.

In this case, the trial court adequately set forth its reasons for revoking Martin's probation in an oral statement, all of which was reduced to writing in the transcript. At the close of the evidentiary hearing, the judge outlined Martin's continued pattern of violating his probation and specifically stated that with respect to the instant allegations, on May 11, 2007, the court had found Martin in violation of his probation and expressly ordered him to miss no further appointments. The trial court also stated that on January 11, 2008, the court ordered Martin to report to the drug lab. It is clear from the trial court's statement that the court was referring to the missed appointment at the probation department and at least one of the missed urine screens. It is also clear from the statement that the trial court relied upon the

State's evidence concerning Martin's failure to report to the probation department or submit to court ordered urine screens. The trial court's statement was complete and well-reasoned, so we reject Martin's claim that it was inadequate to support the revocation of his probation.

Furthermore, to the extent that Martin relies upon *Anglemyer v. State*, 868 N.E.2d 482 (Ind. 2007), we find such reliance to be unjustified. The plain language of *Anglemyer* indicates that Indiana trial courts are required to enter sentencing statements whenever imposing a sentence for a felony offense. *Id*. at 490. In the instant matter, the action at issue was not the imposition of a sentence for a felony offense, but rather the revocation of Martin's probation. Therefore, *Anglemyer* is inapplicable. *See id*.

The judgment of the trial court is affirmed.

RILEY, J., and BAILEY, J., concur.